

AMENDED IN SENATE MAY 6, 1997
AMENDED IN SENATE APRIL 22, 1997
AMENDED IN SENATE APRIL 14, 1997

SENATE BILL

No. 965

Introduced by Senator Costa

February 27, 1997

An act to add Section 7089 to the Government Code, and to amend Sections 17053.70, 17053.74, 17276.2, 23612.2, 23622.7, and 24416.2 of, to repeal Sections 17053.73, 17053.8, 17267, 23622, and 23622.5 of, and to repeal and amend Section 17053.75 of, the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 965, as amended, Costa. Enterprise zones.

The Enterprise Zone Act provides for the designation of enterprise zones by the Trade and Commerce Agency, according to specified criteria, pursuant to which certain entities may receive regulatory, tax, and other incentives for private investment and employment.

This bill would provide that enterprise zones and program areas designated pursuant to former sections that have been repealed and reenacted by acts that became effective on January 1, 1997, shall be deemed to remain in existence for taxable or income years beginning on and after January 1, 1996, and before January 1, 1997. The bill would make conforming changes with regard to a carryover of any unused

credits or deductions attributable to activities in enterprise zones or program areas.

The bill would set forth the method by which specified types of income or losses would be calculated for purposes of the Personal Income Tax Law and the Bank and Corporation Tax Law, to be applied to income or taxable years beginning on or after January 1, 1997.

The bill would make other repeals and revisions in the Personal Income Tax Law and the Bank and Corporation Tax Law with regard to tax credits available for activities in enterprise zones. The bill would also state the intent of the Legislature that the changes to these laws made by the bill shall be deemed to be in effect as of January 1, 1997.

The bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7089 is added to the
2 Government Code, to read:
3 7089. For purposes of the Revenue and Taxation
4 Code, each of the following shall apply:
5 (a) Enterprise zones designated pursuant to former
6 Chapter 12.8 (commencing with Section 7070), as that
7 chapter read prior to January 1, 1997, shall be deemed to
8 remain in existence for taxable or income years beginning
9 on or after January 1, 1996, and before January 1, 1997.
10 (b) Program areas designated pursuant to former
11 Chapter 12.9 (commencing with Section 7080), as that
12 chapter read prior to January 1, 1997, shall be deemed to
13 remain in existence for taxable or income years beginning
14 on or after January 1, 1996, and before January 1, 1997.
15 (c) For taxable or income years beginning on or after
16 January 1, 1996, and before January 1, 1997, a taxpayer
17 conducting business activities located in an enterprise
18 zone designated pursuant to this chapter shall be treated
19 as conducting business activities in an enterprise zone
20 designated pursuant to former Chapter 12.8
21 (commencing with Section 7070), as that chapter read

1 prior to January 1, 1997, or a program area designated
2 pursuant to former Chapter 12.9 (commencing with
3 Section 7080), as that chapter read prior to January 1,
4 1997.

5 (d) For taxable or income years beginning on or after
6 January 1, 1997, the carryover of any unused credits or
7 deductions attributable to a taxpayer's business activities
8 in an enterprise zone designated pursuant to former
9 Chapter 12.8 (commencing with Section 7070), as that
10 chapter read prior to January 1, 1997, or a program area
11 designated pursuant to former Chapter 12.9
12 (commencing with Section 7080), as that chapter read
13 prior to January 1, 1997, from taxable or income years
14 beginning prior to January 1, 1997, shall be allowed, but
15 shall be treated as if earned by a taxpayer or entity
16 engaged in a trade or business within an enterprise zone
17 designated pursuant to this chapter. The amount of
18 carryovers of unused enterprise zone or program area
19 credits shall not be recomputed under the enterprise
20 zone tax provisions that become effective for taxable or
21 income years beginning on or after January 1, 1997.

22 SEC. 2. Section 17053.70 of the Revenue and Taxation
23 Code, as added by Chapter 953 of the Statutes of 1996, is
24 amended to read:

25 17053.70. (a) There shall be allowed as a credit
26 against the "net tax" (as defined in Section 17039) for the
27 taxable year an amount equal to the sales or use tax paid
28 or incurred during the taxable year by the taxpayer in
29 connection with the taxpayer's purchase of qualified
30 property.

31 (b) For purposes of this section:

32 (1) "Taxpayer" means a person or entity engaged in a
33 trade or business within an enterprise zone.

34 (2) "Qualified property" means:

35 (A) Any of the following:

36 (i) Machinery and machinery parts used for
37 fabricating, processing, assembling, and manufacturing.

38 (ii) Machinery and machinery parts used for the
39 production of renewable energy resources.

1 (iii) Machinery and machinery parts used for either of
2 the following:

3 (I) Air pollution control mechanisms.

4 (II) Water pollution control mechanisms.

5 (B) The total cost of qualified property purchased and
6 placed in service in any taxable year that may be taken
7 into account by any taxpayer for purposes of claiming this
8 credit shall not exceed one million dollars (\$1,000,000).

9 (C) The qualified property is used by the taxpayer
10 exclusively in an enterprise zone.

11 (D) The qualified property is purchased and placed in
12 service before the date the enterprise zone designation
13 expires, is no longer binding, or becomes inoperative.

14 (3) "Enterprise zone" means the area designated
15 pursuant to Chapter 12.8 (commencing with Section
16 7070) of Division 7 of Title 1 of the Government Code.

17 (c) If the taxpayer has purchased property upon
18 which a use tax has been paid or incurred, the credit
19 provided by this section shall be allowed only if qualified
20 property of a comparable quality and price is not timely
21 available for purchase in this state.

22 (d) In the case where the credit otherwise allowed
23 under this section exceeds the "net tax" for the taxable
24 year, that portion of the credit that exceeds the "net tax"
25 may be carried over and added to the credit, if any, in
26 succeeding taxable years, until the credit is exhausted.
27 The credit shall be applied first to the earliest taxable
28 years possible.

29 (e) Any taxpayer who elects to be subject to this
30 section shall not be entitled to increase the basis of the
31 qualified property as otherwise required by Section
32 164(a) of the Internal Revenue Code with respect to sales
33 or use tax paid or incurred in connection with the
34 taxpayer's purchase of qualified property.

35 (f) (1) The amount of the credit otherwise allowed
36 under this section and Section 17053.73, including any
37 credit carryover from prior years, that may reduce the
38 "net tax" for the taxable year shall not exceed the amount
39 of tax that would be imposed on the taxpayer's business
40 income attributable to the enterprise zone determined as

1 if that attributable income represented all of the income
2 of the taxpayer subject to tax under this part.

3 (2) The amount of attributable income described in
4 paragraph (1) shall be determined in accordance with
5 the provisions of Chapter 17 (commencing with Section
6 25101) of Part 11, modified for purposes of this section as
7 follows:

8 (A) Business income shall be apportioned to the
9 enterprise zone by multiplying the total business income
10 by a fraction, the numerator of which is the property
11 factor plus the payroll factor, and the denominator of
12 which is two.

13 (B) “The enterprise zone” shall be substituted for
14 “this state.”

15 (3) The portion of any credit remaining, if any, after
16 application of this subdivision, shall be carried over to
17 succeeding taxable years, as if it were an amount
18 exceeding the “net tax” for the taxable year, as provided
19 in subdivision (d).

20 (g) The changes made to this section by the act adding
21 this subdivision shall apply to taxable years beginning on
22 or after January 1, 1997.

23 SEC. 3. Section 17053.70 of the Revenue and Taxation
24 Code, as added by Chapter 955 of the Statutes of 1996, is
25 amended to read:

26 17053.70. (a) There shall be allowed as a credit
27 against the “net tax” (as defined in Section 17039) for the
28 taxable year an amount equal to the sales or use tax paid
29 or incurred during the taxable year by the taxpayer in
30 connection with the taxpayer’s purchase of qualified
31 property.

32 (b) For purposes of this section:

33 (1) “Taxpayer” means a person or entity engaged in a
34 trade or business within an enterprise zone.

35 (2) “Qualified property” means:

36 (A) Any of the following:

37 (i) Machinery and machinery parts used for
38 fabricating, processing, assembling, and manufacturing.

39 (ii) Machinery and machinery parts used for the
40 production of renewable energy resources.

1 (iii) Machinery and machinery parts used for either of
2 the following:

3 (I) Air pollution control mechanisms.

4 (II) Water pollution control mechanisms.

5 (B) The total cost of qualified property purchased and
6 placed in service in any taxable year that may be taken
7 into account by any taxpayer for purposes of claiming this
8 credit shall not exceed one million dollars (\$1,000,000).

9 (C) The qualified property is used by the taxpayer
10 exclusively in an enterprise zone.

11 (D) The qualified property is purchased and placed in
12 service before the date the enterprise zone designation
13 expires, is no longer binding, or becomes inoperative.

14 (3) "Enterprise zone" means the area designated
15 pursuant to Chapter 12.8 (commencing with Section
16 7070) of Division 7 of Title 1 of the Government Code.

17 (c) If the taxpayer has purchased property upon
18 which a use tax has been paid or incurred, the credit
19 provided by this section shall be allowed only if qualified
20 property of a comparable quality and price is not timely
21 available for purchase in this state.

22 (d) In the case where the credit otherwise allowed
23 under this section exceeds the "net tax" for the taxable
24 year, that portion of the credit that exceeds the "net tax"
25 may be carried over and added to the credit, if any, in
26 succeeding taxable years, until the credit is exhausted.
27 The credit shall be applied first to the earliest taxable
28 years possible.

29 (e) Any taxpayer who elects to be subject to this
30 section shall not be entitled to increase the basis of the
31 qualified property as otherwise required by Section
32 164(a) of the Internal Revenue Code with respect to sales
33 or use tax paid or incurred in connection with the
34 taxpayer's purchase of qualified property.

35 (f) (1) The amount of the credit otherwise allowed
36 under this section and Section 17053.74, including any
37 credit carryover from prior years, that may reduce the
38 "net tax" for the taxable year shall not exceed the amount
39 of tax that would be imposed on the taxpayer's business
40 income attributable to the enterprise zone determined as

1 if that attributable income represented all of the income
2 of the taxpayer subject to tax under this part.

3 (2) The amount of attributable income described in
4 paragraph (1) shall be determined in accordance with
5 the provisions of Chapter 17 (commencing with Section
6 25101) of Part 11, modified for purposes of this section as
7 follows:

8 (A) Business income shall be apportioned to the
9 enterprise zone by multiplying the total business income
10 by a fraction, the numerator of which is the property
11 factor plus the payroll factor, and the denominator of
12 which is two.

13 (B) "The enterprise zone" shall be substituted for
14 "this state."

15 (3) The portion of any credit remaining, if any, after
16 application of this subdivision, shall be carried over to
17 succeeding taxable years, as if it were an amount
18 exceeding the "net tax" for the taxable year, as provided
19 in subdivision (d).

20 (g) The changes made to this section by the act adding
21 this subdivision shall apply to taxable years beginning on
22 or after January 1, 1997.

23 SEC. 4. Section 17053.73 of the Revenue and Taxation
24 Code is repealed.

25 SEC. 5. Section 17053.74 of the Revenue and Taxation
26 Code is amended to read:

27 17053.74. (a) There shall be allowed a credit against
28 the "net tax" (as defined in Section 17039) to a taxpayer
29 who employs a qualified employee in an enterprise zone
30 during the taxable year. The credit shall be equal to the
31 sum of each of the following:

32 (1) Fifty percent of qualified wages in the first year of
33 employment.

34 (2) Forty percent of qualified wages in the second year
35 of employment.

36 (3) Thirty percent of qualified wages in the third year
37 of employment.

38 (4) Twenty percent of qualified wages in the fourth
39 year of employment.

1 (5) Ten percent of qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) (i) Except as provided in clause (ii), that portion
6 of wages paid or incurred by the taxpayer during the
7 taxable year to qualified employees that does not exceed
8 150 percent of the minimum wage.

9 (ii) For up to 1,350 qualified employees who are
10 employed by the taxpayer in the Long Beach Enterprise
11 Zone in aircraft manufacturing activities described in
12 Codes 3721 to 3728, inclusive, and Code 3812 of the
13 Standard Industrial Classification (SIC) Manual
14 published by the United States Office of Management
15 and Budget, 1987 edition, “qualified wages” means that
16 portion of hourly wages that does not exceed 202 percent
17 of the minimum wage.

18 (B) Wages received during the 60-month period
19 beginning with the day the employee commences
20 employment with the taxpayer.

21 (C) Qualified wages do not include any wages paid or
22 incurred by the taxpayer on or after the zone expiration
23 date. However, wages paid or incurred with respect to
24 qualified employees who are employed by the taxpayer
25 within the enterprise zone within the 60-month period
26 prior to the zone expiration date shall continue to qualify
27 for the credit under this section after the zone expiration
28 date, in accordance with all provisions of this section
29 applied as if the enterprise zone designation were still in
30 existence and binding.

31 (2) “Minimum wage” means the wage established by
32 the Industrial Welfare Commission as provided for in
33 Chapter 1 (commencing with Section 1171) of Part 4 of
34 Division 2 of the Labor Code.

35 (3) “Zone expiration date” means the date the
36 enterprise zone designation expires, is no longer binding,
37 or becomes inoperative.

38 (4) (A) “Qualified employee” means an individual
39 who meets all of the following requirements:



1 (i) At least 90 percent of whose services for the
2 taxpayer during the taxable year are directly related to
3 the conduct of the taxpayer's trade or business located in
4 an enterprise zone.

5 (ii) Performs at least 50 percent of his or her services
6 for the taxpayer during the taxable year in an enterprise
7 zone.

8 (iii) Is hired by the taxpayer after the date of original
9 designation of the area in which services were performed
10 as an enterprise zone.

11 (iv) Is any of the following:

12 (I) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was
14 a person eligible for services under the federal Job
15 Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or
16 its successor, who is receiving, or is eligible to receive,
17 subsidized employment, training, or services funded by
18 the federal Job Training Partnership Act, or its successor.

19 (II) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was
21 a person eligible to be a voluntary or mandatory
22 registrant under the Greater Avenues for Independence
23 Act of 1985 (GAIN) provided for pursuant to Article 3.2
24 (commencing with Section 11320) of Chapter 2 of Part 3
25 of Division 9 of the Welfare and Institutions Code, or its
26 successor.

27 (III) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was
29 an economically disadvantaged individual 14 years of age
30 or older.

31 (IV) Immediately preceding the qualified employee's
32 commencement of employment with the taxpayer, was
33 a dislocated worker who meets any of the following:

34 Has been terminated or laid off or who has received a
35 notice of termination or layoff from employment, is
36 eligible for or has exhausted entitlement to
37 unemployment insurance benefits, and is unlikely to
38 return to his or her previous industry or occupation.

39 Has been terminated or has received a notice of
40 termination of employment as a result of any permanent

1 closure or any substantial layoff at a plant, facility, or
2 enterprise, including an individual who has not received
3 written notification but whose employer has made a
4 public announcement of the closure or layoff.

5 Is long-term unemployed and has limited opportunities
6 for employment or reemployment in the same or a similar
7 occupation in the area in which the individual resides,
8 including an individual 55 years of age or older who may
9 have substantial barriers to employment by reason of age.

10 Was self-employed (including farmers and ranchers)
11 and is unemployed as a result of general economic
12 conditions in the community in which he or she resides
13 or because of natural disasters.

14 Was a civilian employee of the Department of Defense
15 employed at a military installation being closed or
16 realigned under the Defense Base Closure and
17 Realignment Act of 1990.

18 Was an active member of the armed forces or National
19 Guard as of September 30, 1990, and was either
20 involuntarily separated or separated pursuant to a special
21 benefits program.

22 Is a seasonal or migrant worker who experiences
23 chronic seasonal unemployment and underemployment
24 in the agriculture industry, aggravated by continual
25 advancements in technology and mechanization.

26 Has been terminated or laid off, or has received a notice
27 of termination or layoff, as a consequence of compliance
28 with the Clean Air Act.

29 (V) Immediately preceding the qualified employee's
30 commencement of employment with the taxpayer, was
31 a disabled individual who is eligible for or enrolled in, or
32 has completed a state rehabilitation plan or is a
33 service-connected disabled veteran, veteran of the
34 Vietnam era, or veteran who is recently separated from
35 military service.

36 (VI) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was
38 an ex-offender. An individual shall be treated as
39 convicted if he or she was placed on probation by a state
40 court without a finding of guilty.



(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

Federal Supplemental Security Income benefits.

Aid to Families with Dependent Children.

Food stamps.

State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible ~~under the federal Targeted Jobs Tax Credit Program~~ *as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.*

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(c) The taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act

1 administrative entity or the local county GAIN office or
2 social services agency, as appropriate, a certification
3 which provides that a qualified employee meets the
4 eligibility requirements specified in clause (iv) of
5 subparagraph (A) of paragraph (4) of subdivision (b).
6 The Employment Development Department may
7 provide preliminary screening and referral to a certifying
8 agency. The Employment Development Department
9 shall develop a form for this purpose.

10 (2) Retain a copy of the certification and provide it
11 upon request to the Franchise Tax Board.

12 (d) (1) For purposes of this section:

13 (A) All employees of trades or businesses, which are
14 not incorporated, that are under common control shall be
15 treated as employed by a single taxpayer.

16 (B) The credit, if any, allowable by this section with
17 respect to each trade or business shall be determined by
18 reference to its proportionate share of the expense of the
19 qualified wages giving rise to the credit, and shall be
20 allocated in such manner.

21 (C) Principles that apply in the case of controlled
22 groups of corporations, as specified in subdivision (d) of
23 Section 23622.7, shall apply with respect to determining
24 employment.

25 (2) If an employer acquires the major portion of a
26 trade or business of another employer (hereinafter in this
27 paragraph referred to as the “predecessor”) or the major
28 portion of a separate unit of a trade or business of a
29 predecessor, then, for purposes of applying this section
30 (other than subdivision (e)) for any calendar year ending
31 after that acquisition, the employment relationship
32 between a qualified employee and an employer shall not
33 be treated as terminated if the employee continues to be
34 employed in that trade or business.

35 (e) (1) If the employment of any qualified employee,
36 with respect to whom qualified wages are taken into
37 account under subdivision (a) is terminated by the
38 taxpayer at any time during the first 270 days of that
39 employment (whether or not consecutive) or before the
40 close of the 270th calendar day after the day in which that

1 employee completes 90 days of employment with the
2 taxpayer, the tax imposed by this part for the taxable year
3 in which that employment is terminated shall be
4 increased by an amount equal to the credit allowed under
5 subdivision (a) for that taxable year and all prior taxable
6 years attributable to qualified wages paid or incurred
7 with respect to that employee.

8 (2) (A) Paragraph (1) shall not apply to any of the
9 following:

10 (i) A termination of employment of a qualified
11 employee who voluntarily leaves the employment of the
12 taxpayer.

13 (ii) A termination of employment of a qualified
14 employee who, before the close of the period referred to
15 in paragraph (1), becomes disabled and unable to
16 perform the services of that employment, unless that
17 disability is removed before the close of that period and
18 the taxpayer fails to offer reemployment to that
19 employee.

20 (iii) A termination of employment of a qualified
21 employee, if it is determined under the applicable
22 employment compensation provisions that the
23 termination was due to the misconduct of that employee.

24 (iv) A termination of employment of a qualified
25 employee due to a substantial reduction in the trade or
26 business operations of the taxpayer.

27 (v) A termination of employment of a qualified
28 employee, if that employee is replaced by other qualified
29 employees so as to create a net increase in both the
30 number of employees and the hours of employment.

31 (B) For purposes of paragraph (1), the employment
32 relationship between the taxpayer and a qualified
33 employee shall not be treated as terminated by reason of
34 a mere change in the form of conducting the trade or
35 business of the taxpayer, if the qualified employee
36 continues to be employed in that trade or business and
37 the taxpayer retains a substantial interest in that trade or
38 business.

39 (3) Any increase in tax under paragraph (1) shall not
40 be treated as tax imposed by this part for purposes of

1 determining the amount of any credit allowable under
2 this part.

3 (f) In the case of an estate or trust, both of the
4 following apply:

5 (1) The qualified wages for any taxable year shall be
6 apportioned between the estate or trust and the
7 beneficiaries on the basis of the income of the estate or
8 trust allocable to each.

9 (2) Any beneficiary to whom any qualified wages have
10 been apportioned under paragraph (1) shall be treated,
11 for purposes of this part, as the employer with respect to
12 those wages.

13 (g) For purposes of this section, “enterprise zone”
14 means an area designated pursuant to Chapter 12.8
15 (commencing with Section 7070) of Division 7 of Title 1
16 of the Government Code.

17 (h) The credit allowable under this section shall be
18 reduced by the credit allowed under Sections 17053.10,
19 17053.17 and 17053.46 claimed for the same employee.
20 The credit shall also be reduced by the federal credit
21 allowed under Section 51 of the Internal Revenue Code.

22 In addition, any deduction otherwise allowed under
23 this part for the wages or salaries paid or incurred by the
24 taxpayer upon which the credit is based shall be reduced
25 by the amount of the credit, prior to any reduction
26 required by subdivision (i) or (j).

27 (i) In the case where the credit otherwise allowed
28 under this section exceeds the “net tax” for the taxable
29 year, that portion of the credit that exceeds the “net tax”
30 may be carried over and added to the credit, if any, in
31 succeeding taxable years, until the credit is exhausted.
32 The credit shall be applied first to the earliest taxable
33 years possible.

34 (j) (1) The amount of the credit otherwise allowed
35 under this section and Section 17053.70, including any
36 credit carryover from prior years, that may reduce the
37 “net tax” for the taxable year shall not exceed the amount
38 of tax which would be imposed on the taxpayer’s business
39 income attributable to the enterprise zone determined as



1 if that attributable income represented all of the income
2 of the taxpayer subject to tax under this part.

3 (2) The amount of attributable income described in
4 paragraph (1) shall be determined in accordance with
5 the provisions of Chapter 17 (commencing with Section
6 25101) of Part 11, modified for purposes of this section as
7 follows:

8 (A) Business income shall be apportioned to the
9 enterprise zone by multiplying the total business income
10 by a fraction, the numerator of which is the property
11 factor plus the payroll factor, and the denominator of
12 which is two.

13 (B) “The enterprise zone” shall be substituted for
14 “this state.”

15 (3) The portion of any credit remaining, if any, after
16 application of this subdivision, shall be carried over to
17 succeeding taxable years, as if it were an amount
18 exceeding the “net tax” for the taxable year, as provided
19 in subdivision (i).

20 (k) The changes made to this section by the act adding
21 this subdivision shall apply to taxable years beginning on
22 or after January 1, 1997.

23 SEC. 6. Section 17053.75 of the Revenue and Taxation
24 Code, as added by Section 11 of Chapter 953 of the
25 Statutes of 1996, is repealed.

26 SEC. 7. Section 17053.75 of the Revenue and Taxation
27 Code, as added by Section 11 of Chapter 955 of the
28 Statutes of 1996, is amended to read:

29 17053.75. (a) There shall be allowed as a credit
30 against the “net tax” (as defined by Section 17039) for the
31 taxable year an amount equal to five percent of the
32 qualified wages received by the taxpayer during the
33 taxable year.

34 (b) For purposes of this section:

35 (1) “Qualified employee” means a taxpayer who
36 meets both of the following:

37 (A) Is described in clauses (i) and (ii) of subparagraph
38 (A) of paragraph (4) of subdivision (b) of Section
39 17053.74.

1 (B) Is not an employee of the federal government or
2 of this state or of any political subdivision of this state.

3 (2) (A) “Qualified wages” means “wages,” as defined
4 in subsection (b) of Section 3306 of the Internal Revenue
5 Code, attributable to services performed for an employer
6 with respect to whom the taxpayer is a qualified
7 employee in an amount that does not exceed one and
8 one-half times the dollar limitation specified in that
9 subsection.

10 (B) “Qualified wages” does not include any
11 compensation received from the federal government or
12 this state or any political subdivision of this state.

13 (C) “Qualified wages” does not include any wages
14 received on or after the date the enterprise zone
15 designation expires, is no longer binding, or becomes
16 inoperative.

17 (3) “Enterprise zone” means any area designated
18 pursuant to Chapter 12.8 (commencing with Section
19 7070) of Division 7 of Title 1 of the Government Code.

20 (c) For each dollar of income received by the taxpayer
21 in excess of qualified wages, as defined in this section, the
22 credit shall be reduced by nine cents (\$0.09).

23 (d) The amount of the credit allowed by this section in
24 any taxable year shall not exceed the amount of tax that
25 would be imposed on the taxpayer’s income attributable
26 to employment within the enterprise zone as if that
27 income represented all of the income of the taxpayer
28 subject to tax under this part.

29 SEC. 8. Section 17053.8 of the Revenue and Taxation
30 Code is repealed.

31 SEC. 9. Section 17267 of the Revenue and Taxation
32 Code, as added by Section 16 of Chapter 953 of the
33 Statutes of 1996, is repealed.

34 SEC. 10. Section 23622 of the Revenue and Taxation
35 Code is repealed.

36 SEC. 11. Section 17276.2 of the Revenue and Taxation
37 Code is amended to read:

38 17276.2. The term “qualified taxpayer” as used in
39 Section 17276.1 means any of the following:



(a) A person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(i) Business income shall be apportioned to the enterprise zone by multiplying the total business income by a fraction, the numerator of which is the property

1 factor plus the payroll factor, and the denominator of
2 which is two.

3 (ii) “The enterprise zone” shall be substituted for “this
4 state.”

5 (C) “Enterprise zone expiration date” means the date
6 the enterprise zone designation expires, is no longer
7 binding, or becomes inoperative.

8 (3) The changes made to this subdivision by the act
9 adding this paragraph shall apply to taxable years
10 beginning on or after January 1, 1997.

11 (b) A person or entity engaged in the conduct of a
12 trade or business within the Los Angeles Revitalization
13 Zone designated pursuant to Section 7102 of the
14 Government Code.

15 (1) A net operating loss shall not be a net operating loss
16 carryback for any taxable year, and a net operating loss
17 for any taxable year beginning on or after the date the
18 area in which the taxpayer conducts a trade or business
19 is designated the Los Angeles Revitalization Zone shall be
20 a net operating loss carryover to each following taxable
21 year that ends before the Los Angeles Revitalization
22 Zone expiration date or to each of the 15 taxable years
23 following the taxable year of loss, if longer.

24 (2) For the purposes of this subdivision:

25 (A) “Net operating loss” means the loss determined
26 under Section 172 of the Internal Revenue Code, as
27 modified by Section 17276.1, attributable to the taxpayer’s
28 business activities within the Los Angeles Revitalization
29 Zone (as defined in Section 7102 of the Government
30 Code) prior to the Los Angeles Revitalization Zone
31 expiration date. The attributable loss shall be determined
32 in accordance with the provisions of Chapter 17
33 (commencing with Section 25101) of Part 11, modified as
34 follows:

35 (i) Loss shall be apportioned to the Los Angeles
36 Revitalization Zone by multiplying total loss from the
37 business by a fraction, the numerator of which is the
38 property factor plus the payroll factor, and the
39 denominator of which is two.

1 (ii) “The Los Angeles Revitalization Zone” shall be
2 substituted for “this state.”

3 (B) A net operating loss carryover shall be a deduction
4 only with respect to the taxpayer’s business income
5 attributable to the Los Angeles Revitalization Zone (as
6 defined in Section 7102 of the Government Code)
7 determined in accordance with the provisions of
8 paragraph (3).

9 (3) Attributable income shall be that portion of the
10 taxpayer’s California source business income which is
11 apportioned to the Los Angeles Revitalization Zone. For
12 that purpose, the taxpayer’s business income attributable
13 to sources in this state first shall be determined in
14 accordance with the provisions of Chapter 17
15 (commencing with Section 25101) of Part 11. That
16 business income shall be further apportioned to the Los
17 Angeles Revitalization Zone in accordance with the
18 provisions of Article 2 (commencing with Section 25120)
19 of Chapter 17 of Part 11, modified as follows:

20 (A) Business income shall be apportioned to the Los
21 Angeles Revitalization Zone by multiplying total
22 California business income of the taxpayer by a fraction,
23 the numerator of which is the property factor plus the
24 payroll factor, and the denominator of which is two.

25 (B) The property factor is a fraction, the numerator of
26 which is the average value of the taxpayer’s real and
27 tangible personal property owned or rented and used in
28 the Los Angeles Revitalization Zone during the taxable
29 year and the denominator of which is the average value
30 of all the taxpayer’s real and tangible personal property
31 owned or rented and used in this state during the taxable
32 year.

33 (C) The payroll factor is a fraction, the numerator of
34 which is the total amount paid by the taxpayer in the Los
35 Angeles Revitalization Zone during the taxable year for
36 compensation, and the denominator of which is the total
37 compensation paid by the taxpayer in this state during the
38 taxable year.

39 (4) “Los Angeles Revitalization Zone expiration date”
40 means the date the Los Angeles Revitalization Zone

1 designation expires, is repealed, or becomes inoperative
2 pursuant to Section 7102, 7103, or 7104 of the Government
3 Code.

4 (5) This subdivision shall be inoperative on the first
5 day of the taxable year beginning on or after the
6 determination date, and each taxable year thereafter,
7 with respect to the taxpayer's business activities within a
8 geographic area that is excluded from the map pursuant
9 to Section 7102 of the Government Code, or an excluded
10 area determined pursuant to Section 7104 of the
11 Government Code. The determination date is the earlier
12 of the first effective date of a determination under
13 subdivision (c) of Section 7102 of the Government Code
14 occurring after December 1, 1994, or the first effective
15 date of an exclusion of an area from the amended Los
16 Angeles Revitalization Zone under Section 7104 of the
17 Government Code. However, if the taxpayer has any
18 unused loss amount as of the date this section becomes
19 inoperative, that unused loss amount may continue to be
20 carried forward as provided in this subdivision.

21 (6) This subdivision shall cease to be operative on
22 January 1, 1998. However, any unused net operating loss
23 may continue to be carried over to following years as
24 provided in this subdivision.

25 (c) For each taxable year beginning on or after
26 January 1, 1995, and before January 1, 2003, a taxpayer
27 engaged in the conduct of a trade or business within a
28 LAMBRA.

29 (1) A net operating loss shall not be a net operating loss
30 carryback for any taxable year, and a net operating loss
31 for any taxable year beginning on or after the date the
32 area in which the taxpayer conducts a trade or business
33 is designated a LAMBRA shall be a net operating loss
34 carryover to each following taxable year that ends before
35 the LAMBRA expiration date or to each of the 15 taxable
36 years following the taxable year of loss, if longer.

37 (2) For the purposes of this subdivision:

38 (A) "LAMBRA" means a local agency military base
39 recovery area designated in accordance with Section 7114
40 of the Government Code.

1 (B) “Taxpayer” means a person or entity that
2 conducts a trade or business within a LAMBRA and, for
3 the first two taxable years, has a net increase in jobs
4 (defined as 2,000 paid hours per employee per year) of
5 one or more employees in the LAMBRA and this state.

6 (i) The net increase in the number of jobs shall be
7 determined by subtracting the total number of full-time
8 employees (defined as 2,000 paid hours per employee per
9 year) the taxpayer employed in this state in the taxable
10 year prior to commencing business operations in the
11 LAMBRA from the total number of full-time employees
12 the taxpayer employed in this state during the second
13 taxable year after commencing business operations in the
14 LAMBRA. For taxpayers who commence doing business
15 in this state with their LAMBRA business operation, the
16 number of employees for the taxable year prior to
17 commencing business operations in the LAMBRA shall
18 be zero. The deduction shall be allowed only if the
19 taxpayer has a net increase in jobs in the state, and if one
20 or more full-time employees is employed within the
21 LAMBRA.

22 (ii) The total number of employees employed in the
23 LAMBRA shall equal the sum of both of the following:

24 (I) The total number of hours worked in the LAMBRA
25 for the taxpayer by employees (not to exceed 2,000 hours
26 per employee) who are paid an hourly wage divided by
27 2,000.

28 (II) The total number of months worked in the
29 LAMBRA for the taxpayer by employees who are salaried
30 employees divided by 12.

31 (iii) In the case of a taxpayer who first commences
32 doing business in the LAMBRA during the taxable year,
33 for purposes of subclauses (I) and (II), respectively, of
34 clause (ii) the divisors “2,000” and “12” shall be
35 multiplied by a fraction, the numerator of which is the
36 number of months of the taxable year that the taxpayer
37 was doing business in the LAMBRA and the denominator
38 of which is 12.

39 (C) “Net operating loss” means the loss determined
40 under Section 172 of the Internal Revenue Code, as

1 modified by Section 17276.1, attributable to the taxpayer's
2 business activities within a LAMBRA prior to the
3 LAMBRA expiration date. The attributable loss shall be
4 determined in accordance with the provisions of Chapter
5 17 (commencing with Section 25101) of Part 11, modified
6 as follows:

7 (i) Loss shall be apportioned to a LAMBRA by
8 multiplying total loss from the business by a fraction, the
9 numerator of which is the property factor plus the payroll
10 factor, and the denominator of which is two.

11 (ii) "The LAMBRA" shall be substituted for "this
12 state."

13 (D) A net operating loss carryover shall be a deduction
14 only with respect to the taxpayer's business income
15 attributable to a LAMBRA determined in accordance
16 with the provisions of Chapter 17 (commencing with
17 Section 25101) of Part 11, modified as follows:

18 (i) Business income shall be apportioned to a
19 LAMBRA by multiplying total business income by a
20 fraction, the numerator of which is the property factor
21 plus the payroll factor, and the denominator of which is
22 two.

23 (ii) "The LAMBRA" shall be substituted for "this
24 state."

25 (iii) If a loss carryover is allowable pursuant to this
26 section for any taxable year after the LAMBRA
27 designation has expired, the LAMBRA shall be deemed
28 to remain in existence for purposes of computing this
29 limitation.

30 (E) "LAMBRA expiration date" means the date the
31 LAMBRA designation expires, is no longer binding, or
32 becomes inoperative pursuant to Section 7110 of the
33 Government Code.

34 (d) A taxpayer who qualifies as a "qualified taxpayer"
35 shall, for the taxable year of the net operating loss and any
36 taxable year to which that net operating loss may be
37 carried, designate on the original return filed for each
38 year the subdivision of this section which applies to that
39 taxpayer with respect to that net operating loss. If the
40 taxpayer is eligible to qualify under more than one



1 subdivision of this section, the designation is to be made
2 after taking into account subdivision (e).

3 (e) If a taxpayer is eligible to qualify under more than
4 one subdivision of this section as a “qualified taxpayer,”
5 with respect to a net operating loss in a taxable year, the
6 taxpayer shall designate which subdivision of this section
7 is to apply to the taxpayer.

8 (f) Notwithstanding Section 17276, the amount of the
9 loss determined under this section shall be the only net
10 operating loss allowed to be carried over from that
11 taxable year and the designation under subdivision (d)
12 shall be included in the election under Section 17276.1.

13 SEC. 12. Section 23612.2 of the Revenue and Taxation
14 Code, as added by Chapter 953 of the Statutes of 1996, is
15 amended to read:

16 23612.2. (a) There shall be allowed as a credit against
17 the “tax” (as defined by Section 23036) for the income
18 year an amount equal to the sales or use tax paid or
19 incurred during the income year by the taxpayer in
20 connection with the taxpayer’s purchase of qualified
21 property.

22 (b) For purposes of this section:

23 (1) “Taxpayer” means either a bank or corporation
24 engaged in a trade or business within an enterprise zone.

25 (2) “Qualified property” means:

26 (A) Any of the following:

27 (i) Machinery and machinery parts used for
28 fabricating, processing, assembling, and manufacturing.

29 (ii) Machinery and machinery parts used for the
30 production of renewable energy resources.

31 (iii) Machinery and machinery parts used for either of
32 the following:

33 (I) Air pollution control mechanisms.

34 (II) Water pollution control mechanisms.

35 (B) The total cost of qualified property purchased and
36 placed in service in any income year that may be taken
37 into account by any taxpayer for purposes of claiming this
38 credit shall not exceed twenty million dollars
39 (\$20,000,000).

1 (C) The qualified property is used by the taxpayer
2 exclusively in an enterprise zone.

3 (D) The qualified property is purchased and placed in
4 service before the date the enterprise zone designation
5 expires, is no longer binding, or becomes inoperative.

6 (3) “Enterprise zone” means the area designated
7 pursuant to Chapter 12.8 (commencing with Section
8 7070) of Division 7 of Title 1 of the Government Code.

9 (c) If the taxpayer has purchased property upon
10 which a use tax has been paid or incurred, the credit
11 provided by this section shall be allowed only if qualified
12 property of a comparable quality and price is not timely
13 available for purchase in this state.

14 (d) In the case where the credit otherwise allowed
15 under this section exceeds the “tax” for the income year,
16 that portion of the credit which exceeds the “tax” may be
17 carried over and added to the credit, if any, in the
18 following year, and succeeding years if necessary, until
19 the credit is exhausted. The credit shall be applied first to
20 the earliest income years possible.

21 (e) Any taxpayer who elects to be subject to this
22 section shall not be entitled to increase the basis of the
23 qualified property as otherwise required by Section
24 164(a) of the Internal Revenue Code with respect to sales
25 or use tax paid or incurred in connection with the
26 taxpayer’s purchase of qualified property.

27 (f) (1) The amount of credit otherwise allowed under
28 this section and Section 23622.5, including any credit
29 carryover from prior years, that may reduce the “tax” for
30 the income year shall not exceed the amount of tax which
31 would be imposed on the taxpayer’s business income
32 attributable to the enterprise zone determined as if that
33 attributable income represented all of the income of the
34 taxpayer subject to tax under this part.

35 (2) The amount of attributable income described in
36 paragraph (1) shall be determined in accordance with
37 the provisions of Chapter 17 (commencing with Section
38 25101), modified for purposes of this section as follows:

39 (A) Business income shall be apportioned to the
40 enterprise zone by multiplying the total business income

1 by a fraction, the numerator of which is the property
2 factor plus the payroll factor, and the denominator of
3 which is two.

4 (B) “The enterprise zone” shall be substituted for
5 “this state.”

6 (3) The portion of any credit remaining, if any, after
7 application of this subdivision, shall be carried over to
8 succeeding income years, as if it were an amount
9 exceeding the “tax” for the income year, as provided in
10 subdivision (d).

11 (g) The changes made to this section by the act adding
12 this subdivision shall apply to income years beginning on
13 or after January 1, 1997.

14 SEC. 13. Section 23612.2 of the Revenue and Taxation
15 Code, as added by Chapter 955 of the Statutes of 1996, is
16 amended to read:

17 23612.2. (a) There shall be allowed as a credit against
18 the “tax” (as defined by Section 23036) for the income
19 year an amount equal to the sales or use tax paid or
20 incurred during the income year by the taxpayer in
21 connection with the taxpayer’s purchase of qualified
22 property.

23 (b) For purposes of this section:

24 (1) “Taxpayer” means either a bank or corporation
25 engaged in a trade or business within an enterprise zone.

26 (2) “Qualified property” means:

27 (A) Any of the following:

28 (i) Machinery and machinery parts used for
29 fabricating, processing, assembling, and manufacturing.

30 (ii) Machinery and machinery parts used for the
31 production of renewable energy resources.

32 (iii) Machinery and machinery parts used for either of
33 the following:

34 (I) Air pollution control mechanisms.

35 (II) Water pollution control mechanisms.

36 (B) The total cost of qualified property purchased and
37 placed in service in any income year that may be taken
38 into account by any taxpayer for purposes of claiming this
39 credit shall not exceed twenty million dollars
40 (\$20,000,000).

1 (C) The qualified property is used by the taxpayer
2 exclusively in an enterprise zone.

3 (D) The qualified property is purchased and placed in
4 service before the date the enterprise zone designation
5 expires, is no longer binding, or becomes inoperative.

6 (3) “Enterprise zone” means the area designated
7 pursuant to Chapter 12.8 (commencing with Section
8 7070) of Division 7 of Title 1 of the Government Code.

9 (c) If the taxpayer has purchased property upon
10 which a use tax has been paid or incurred, the credit
11 provided by this section shall be allowed only if qualified
12 property of a comparable quality and price is not timely
13 available for purchase in this state.

14 (d) In the case where the credit otherwise allowed
15 under this section exceeds the “tax” for the income year,
16 that portion of the credit which exceeds the “tax” may be
17 carried over and added to the credit, if any, in the
18 following year, and succeeding years if necessary, until
19 the credit is exhausted. The credit shall be applied first to
20 the earliest income years possible.

21 (e) Any taxpayer who elects to be subject to this
22 section shall not be entitled to increase the basis of the
23 qualified property as otherwise required by Section
24 164(a) of the Internal Revenue Code with respect to sales
25 or use tax paid or incurred in connection with the
26 taxpayer’s purchase of qualified property.

27 (f) (1) The amount of credit otherwise allowed under
28 this section and Section 23622.7, including any credit
29 carryover from prior years, that may reduce the “tax” for
30 the income year shall not exceed the amount of tax which
31 would be imposed on the taxpayer’s business income
32 attributable to the enterprise zone determined as if that
33 attributable income represented all of the income of the
34 taxpayer subject to tax under this part.

35 (2) The amount of attributable income described in
36 paragraph (1) shall be determined in accordance with
37 the provisions of Chapter 17 (commencing with Section
38 25101), modified for purposes of this section as follows:

39 (A) Business income shall be apportioned to the
40 enterprise zone by multiplying the total business income

1 by a fraction, the numerator of which is the property
2 factor plus the payroll factor, and the denominator of
3 which is two.

4 (B) “The enterprise zone” shall be substituted for
5 “this state.”

6 (3) The portion of any credit remaining, if any, after
7 application of this subdivision, shall be carried over to
8 succeeding income years, as if it were an amount
9 exceeding the “tax” for the income year, as provided in
10 subdivision (d).

11 (g) The changes made to this section by the act adding
12 this subdivision shall apply to income years beginning on
13 or after January 1, 1997.

14 SEC. 14. Section 23622.5 of the Revenue and Taxation
15 Code is repealed.

16 SEC. 15. Section 23622.7 of the Revenue and Taxation
17 Code is amended to read:

18 23622.7. (a) There shall be allowed a credit against
19 the “tax” (as defined by Section 23036) to a taxpayer who
20 employs a qualified employee in an enterprise zone
21 during the income year. The credit shall be equal to the
22 sum of each of the following:

23 (1) Fifty percent of qualified wages in the first year of
24 employment.

25 (2) Forty percent of qualified wages in the second year
26 of employment.

27 (3) Thirty percent of qualified wages in the third year
28 of employment.

29 (4) Twenty percent of qualified wages in the fourth
30 year of employment.

31 (5) Ten percent of qualified wages in the fifth year of
32 employment.

33 (b) For purposes of this section:

34 (1) “Qualified wages” means:

35 (A) (i) Except as provided in clause (ii), that portion
36 of wages paid or incurred by the taxpayer during the
37 income year to qualified employees that does not exceed
38 150 percent of the minimum wage.

39 (ii) For up to 1,350 qualified employees who are
40 employed by the taxpayer in the Long Beach Enterprise

1 Zone in aircraft manufacturing activities described in
2 Codes 3721 to 3728, inclusive, and Code 3812 of the
3 Standard Industrial Classification (SIC) Manual
4 published by the United States Office of Management
5 and Budget, 1987 edition, “qualified wages” means that
6 portion of hourly wages that does not exceed 202 percent
7 of the minimum wage.

8 (B) Wages received during the 60-month period
9 beginning with the day the employee commences
10 employment with the taxpayer.

11 (C) Qualified wages do not include any wages paid or
12 incurred by the taxpayer on or after the zone expiration
13 date. However, wages paid or incurred with respect to
14 qualified employees who are employed by the taxpayer
15 within the enterprise zone within the 60-month period
16 prior to the zone expiration date shall continue to qualify
17 for the credit under this section after the zone expiration
18 date, in accordance with all provisions of this section
19 applied as if the enterprise zone designation were still in
20 existence and binding.

21 (2) “Minimum wage” means the wage established by
22 the Industrial Welfare Commission as provided for in
23 Chapter 1 (commencing with Section 1171) of Part 4 of
24 Division 2 of the Labor Code.

25 (3) “Zone expiration date” means the date the
26 enterprise zone designation expires, is no longer binding,
27 or becomes inoperative.

28 (4) (A) “Qualified employee” means an individual
29 who meets all of the following requirements:

30 (i) At least 90 percent of whose services for the
31 taxpayer during the income year are directly related to
32 the conduct of the taxpayer’s trade or business located in
33 an enterprise zone.

34 (ii) Performs at least 50 percent of his or her services
35 for the taxpayer during the income year in an enterprise
36 zone.

37 (iii) Is hired by the taxpayer after the date of original
38 designation of the area in which services were performed
39 as an enterprise zone.

40 (iv) Is any of the following:



1 (I) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was
3 a person eligible for services under the federal Job
4 Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or
5 its successor, who is receiving, or is eligible to receive,
6 subsidized employment, training, or services funded by
7 the federal Job Training Partnership Act, or its successor.

8 (II) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was
10 a person eligible to be a voluntary or mandatory
11 registrant under the Greater Avenues for Independence
12 Act of 1985 (GAIN) provided for pursuant to Article 3.2
13 (commencing with Section 11320) of Chapter 2 of Part 3
14 of Division 9 of the Welfare and Institutions Code, or its
15 successor.

16 (III) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was
18 an economically disadvantaged individual 14 years of age
19 or older.

20 (IV) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was
22 a dislocated worker who meets any of the following:

23 Has been terminated or laid off or who has received a
24 notice of termination or layoff from employment, is
25 eligible for or has exhausted entitlement to
26 unemployment insurance benefits, and is unlikely to
27 return to his or her previous industry or occupation.

28 Has been terminated or has received a notice of
29 termination of employment as a result of any permanent
30 closure or any substantial layoff at a plant, facility, or
31 enterprise, including an individual who has not received
32 written notification but whose employer has made a
33 public announcement of the closure or layoff.

34 Is long-term unemployed and has limited opportunities
35 for employment or reemployment in the same or a similar
36 occupation in the area in which the individual resides,
37 including an individual 55 years of age or older who may
38 have substantial barriers to employment by reason of age.

39 Was self-employed (including farmers and ranchers)
40 and is unemployed as a result of general economic

1 conditions in the community in which he or she resides
2 or because of natural disasters.

3 Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or
5 realigned under the Defense Base Closure and
6 Realignment Act of 1990.

7 Was an active member of the armed forces or National
8 Guard as of September 30, 1990, and was either
9 involuntarily separated or separated pursuant to a special
10 benefits program.

11 Is a seasonal or migrant worker who experiences
12 chronic seasonal unemployment and underemployment
13 in the agriculture industry, aggravated by continual
14 advancements in technology and mechanization.

15 Has been terminated or laid off, or has received a notice
16 of termination or layoff, as a consequence of compliance
17 with the Clean Air Act.

18 (V) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was
20 a disabled individual who is eligible for or enrolled in, or
21 has completed a state rehabilitation plan or is a
22 service-connected disabled veteran, veteran of the
23 Vietnam era, or veteran who is recently separated from
24 military service.

25 (VI) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was
27 an ex-offender. An individual shall be treated as
28 convicted if he or she was placed on probation by a state
29 court without a finding of guilty.

30 (VII) Immediately preceding the qualified
31 employee's commencement of employment with the
32 taxpayer, was a person eligible for or a recipient of any of
33 the following:

34 Federal Supplemental Security Income benefits.

35 Aid to Families with Dependent Children.

36 Food stamps.

37 State and local general assistance.

38 (VIII) Immediately preceding the qualified
39 employee's commencement of employment with the

1 taxpayer, was a member of a federally recognized Indian
2 tribe, band, or other group of Native American descent.

3 (IX) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was
5 a resident of a targeted employment area (as defined in
6 Section 7072 of the Government Code).

7 (X) An employee who qualified the taxpayer for the
8 enterprise zone hiring credit under former Section 23622
9 or the program area hiring credit under former Section
10 23623.

11 *(XI) Immediately preceding the qualified employee's*
12 *commencement of employment with the taxpayer, was*
13 *a member of a targeted group, as defined in Section 51(d)*
14 *of the Internal Revenue Code, or its successor.*

15 (B) Priority for employment shall be provided to an
16 individual who is enrolled in a qualified program under
17 the federal Job Training Partnership Act or the Greater
18 Avenues for Independence Act of 1985 or who is eligible
19 ~~under the federal Targeted Jobs Tax Credit Program.~~ *as*
20 *a member of a targeted group under the Work*
21 *Opportunity Tax Credit (Section 51 of the Internal*
22 *Revenue Code), or its successor.*

23 (5) "Taxpayer" means a bank or corporation engaged
24 in a trade or business within an enterprise zone
25 designated pursuant to Chapter 12.8 (commencing with
26 Section 7070) of Division 7 of Title 1 of the Government
27 Code.

28 (c) The taxpayer shall do both of the following:

29 (1) Obtain from either the Employment
30 Development Department, as permitted by federal law,
31 or the local county or city Job Training Partnership Act
32 administrative entity or the local county GAIN office or
33 social services agency, as appropriate, a certification that
34 provides that a qualified employee meets the eligibility
35 requirements specified in clause (iv) of subparagraph
36 (A) of paragraph (4) of subdivision (b). The
37 Employment Development Department may provide
38 preliminary screening and referral to a certifying agency.
39 The Employment Development Department shall
40 develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) If the employment of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be

1 increased by an amount equal to the credit allowed under
2 subdivision (a) for that income year and all prior income
3 years attributable to qualified wages paid or incurred
4 with respect to that employee.

5 (2) (A) Paragraph (1) shall not apply to any of the
6 following:

7 (i) A termination of employment of a qualified
8 employee who voluntarily leaves the employment of the
9 taxpayer.

10 (ii) A termination of employment of a qualified
11 employee who, before the close of the period referred to
12 in paragraph (1), becomes disabled and unable to
13 perform the services of that employment, unless that
14 disability is removed before the close of that period and
15 the taxpayer fails to offer reemployment to that
16 employee.

17 (iii) A termination of employment of a qualified
18 employee, if it is determined under the applicable
19 unemployment compensation provisions that the
20 termination was due to the misconduct of that employee.

21 (iv) A termination of employment of a qualified
22 employee due to a substantial reduction in the trade or
23 business operations of the taxpayer.

24 (v) A termination of employment of a qualified
25 employee, if that employee is replaced by other qualified
26 employees so as to create a net increase in both the
27 number of employees and the hours of employment.

28 (B) For purposes of paragraph (1), the employment
29 relationship between the taxpayer and a qualified
30 employee shall not be treated as terminated by either of
31 the following:

32 (i) By a transaction to which Section 381(a) of the
33 Internal Revenue Code applies, if the qualified employee
34 continues to be employed by the acquiring corporation.

35 (ii) By reason of a mere change in the form of
36 conducting the trade or business of the taxpayer, if the
37 qualified employee continues to be employed in that
38 trade or business and the taxpayer retains a substantial
39 interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies:

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, “enterprise zone” means an area designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the income year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding income years, until the credit is exhausted. The credit shall be applied first to the earliest income years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the “tax” for the income year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) The amount of attributable income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Business income shall be apportioned to the enterprise zone by multiplying the total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) “The enterprise zone” shall be substituted for “this state.”

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the “tax” for the income year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to income years beginning on or after January 1, 1997.

SEC. 16. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. The term “qualified taxpayer” as used in Section 24416.1 means any of the following:

(a) A bank or corporation engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(1) A net operating loss shall not be a net operating loss carryback for any income year and a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of

1 Division 7 of Title 1 of the Government Code) prior to the
2 enterprise zone expiration date. That attributable loss
3 shall be determined in accordance with the provisions of
4 Chapter 17 (commencing with Section 25101), modified
5 for purposes of this section as follows:

6 (i) Loss shall be apportioned to the enterprise zone by
7 multiplying total loss from the business by a fraction, the
8 numerator of which is the property factor plus the payroll
9 factor, and the denominator of which is two.

10 (ii) “The enterprise zone” shall be substituted for “this
11 state.”

12 (B) A net operating loss carryover shall be a deduction
13 only with respect to the taxpayer’s business income
14 attributable to the enterprise zone (as defined in Chapter
15 12.8 (commencing with Section 7070) of Division 7 of
16 Title 1 of the Government Code) determined in
17 accordance with the provisions of Chapter 17
18 (commencing with Section 25101), modified for purposes
19 of this section as follows:

20 (i) Business income shall be apportioned to the
21 enterprise zone by multiplying the total business income
22 by a fraction, the numerator of which is the property
23 factor plus the payroll factor, and the denominator of
24 which is two.

25 (ii) “The enterprise zone” shall be substituted for “this
26 state.”

27 (C) “Enterprise zone expiration date” means the date
28 the enterprise zone designation expires, is no longer
29 binding, or becomes inoperative.

30 (3) The changes made to this subdivision by the act
31 adding this paragraph shall apply to income years
32 beginning on or after January 1, 1997.

33 (b) A bank or corporation engaged in the conduct of
34 a trade or business within the Los Angeles Revitalization
35 Zone designated pursuant to Section 7102 of the
36 Government Code.

37 (1) (A) A net operating loss shall not be a net
38 operating loss carryback for any income year and, except
39 as provided in subparagraph (B), a net operating loss for
40 any income year beginning on or after the date the area

1 in which the taxpayer conducts a trade or business is
2 designated the Los Angeles Revitalization Zone shall be
3 a net operating loss carryover to each following income
4 year that ends before the Los Angeles Revitalization
5 Zone expiration date or to each of the 15 income years
6 following the income year of loss, if longer.

7 (B) In the case of a financial institution to which
8 Section 585, 586, or 593 of the Internal Revenue Code
9 applies, a net operating loss for any income year
10 beginning on or after January 1, 1984, shall be a net
11 operating loss carryover to each of the five years
12 following the income year of the loss. Subdivision (b) of
13 Section 24416.1 shall not apply.

14 (2) For the purposes of this subdivision:

15 (A) “Net operating loss” means the loss determined
16 under Section 172 of the Internal Revenue Code, as
17 modified by Section 24416.1, attributable to the taxpayer’s
18 business activities within the Los Angeles Revitalization
19 Zone (as defined in Section 7102 of the Government
20 Code) prior to the Los Angeles Revitalization Zone
21 expiration date. The attributable loss shall be determined
22 in accordance with the provisions of Chapter 17
23 (commencing with Section 25101), modified as follows:

24 (i) The loss shall be apportioned to the Los Angeles
25 Revitalization Zone by multiplying the loss from the
26 business by a fraction, the numerator of which is the
27 property factor plus the payroll factor, and the
28 denominator of which is two.

29 (ii) “The Los Angeles Revitalization Zone” shall be
30 substituted for this state.

31 (B) A net operating loss carryover shall be a deduction
32 only with respect to the taxpayer’s business income
33 attributable to the Los Angeles Revitalization Zone (as
34 defined in Section 7102 of the Government Code)
35 determined in accordance with the provisions of
36 paragraph (3).

37 (3) Attributable income shall be that portion of the
38 taxpayer’s California source business income which is
39 apportioned to the Los Angeles Revitalization Zone. For
40 that purpose, the taxpayer’s business income attributable

1 to sources in this state first shall be determined in
2 accordance with the provisions of Chapter 17
3 (commencing with Section 25101). That business income
4 shall be further apportioned to the Los Angeles
5 Revitalization Zone in accordance with the provisions of
6 Article 2 (commencing with Section 25120) of Chapter
7 17, modified as follows:

8 (A) Business income shall be apportioned to the Los
9 Angeles Revitalization Zone by multiplying total
10 California business income of the taxpayer by a fraction,
11 the numerator of which is the property factor plus the
12 payroll factor, and the denominator of which is two.

13 (B) The property factor is a fraction, the numerator of
14 which is the average value of the taxpayer's real and
15 tangible personal property owned or rented and used in
16 the Los Angeles Revitalization Zone during the income
17 year and the denominator of which is the average value
18 of all the taxpayer's real and tangible personal property
19 owned or rented and used in this state during the income
20 year.

21 (C) The payroll factor is a fraction, the numerator of
22 which is the total amount paid by the taxpayer in the Los
23 Angeles Revitalization Zone during the income year for
24 compensation, and the denominator of which is the total
25 compensation paid by the taxpayer in this state during the
26 income year.

27 (4) "Los Angeles Revitalization Zone expiration date"
28 means the date the Los Angeles Revitalization Zone
29 designation expires, is repealed, or becomes inoperative
30 pursuant to Section 7102, 7103, or 7104 of the Government
31 Code.

32 (5) This subdivision shall be inoperative on the first
33 day of the income year beginning on or after the
34 determination date, and each income year thereafter,
35 with respect to the taxpayer's business activities within a
36 geographic area that is excluded from the map pursuant
37 to Section 7102 of the Government Code, or an excluded
38 area determined pursuant to Section 7104 of the
39 Government Code. The determination date is the earlier
40 of the first effective date of a determination under

subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code. However, if the taxpayer has any unused loss amount as of the date this section becomes inoperative, that unused loss amount may continue to be carried forward as provided in this subdivision.

(6) This subdivision shall cease to be operative on January 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this subdivision.

(c) For each income year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer engaged in the conduct of a trade or business within a LAMBRA.

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following income year that ends before the LAMBRA expiration date or to each of the 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For the purposes of this subdivision:

(A) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(B) “Taxpayer” means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two income years, has a net increase in jobs

1 (defined as 2,000 paid hours per employee per year) of
2 one or more employees in the LAMBRA and this state.

3 (i) The net increase in the number of jobs shall be
4 determined by subtracting the total number of full-time
5 employees (defined as 2,000 paid hours per employee per
6 year) the taxpayer employed in this state in the income
7 year prior to commencing business operations in the
8 LAMBRA from the total number of full-time employees
9 the taxpayer employed in this state during the second
10 income year after commencing business operations in the
11 LAMBRA. For taxpayers who commence doing business
12 in this state with their LAMBRA business operation, the
13 number of employees for the income year prior to
14 commencing business operations in the LAMBRA shall
15 be zero. The deduction shall be allowed only if the
16 taxpayer has a net increase in jobs in the state, and if one
17 or more full-time employees is employed within the
18 LAMBRA.

19 (ii) The total number of employees employed in the
20 LAMBRA shall equal the sum of both of the following:

21 (I) The total number of hours worked in the LAMBRA
22 for the taxpayer by employees (not to exceed 2,000 hours
23 per employee) who are paid an hourly wage divided by
24 2,000.

25 (II) The total number of months worked in the
26 LAMBRA for the taxpayer by employees who are salaried
27 employees divided by 12.

28 (iii) In the case of a taxpayer that first commences
29 doing business in the LAMBRA during the income year,
30 for purposes of subclauses (I) and (II), respectively, of
31 clause (ii) the divisors “2,000” and “12” shall be
32 multiplied by a fraction, the numerator of which is the
33 number of months of the income year that the taxpayer
34 was doing business in the LAMBRA and the denominator
35 of which is 12.

36 (C) “Net operating loss” means the loss determined
37 under Section 172 of the Internal Revenue Code, as
38 modified by Section 24416.1, attributable to the taxpayer’s
39 business activities within a LAMBRA prior to the
40 LAMBRA expiration date. The attributable loss shall be

determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified as follows:

(i) Loss shall be apportioned to a LAMBRA by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The LAMBRA” shall be substituted for “this state.”

(D) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to a LAMBRA determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified as follows:

(i) Business income shall be apportioned to a LAMBRA by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The LAMBRA” shall be substituted for “this state.”

(iii) If a loss carryover is allowable pursuant to this section for any income year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing this limitation.

(E) “LAMBRA expiration date” means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

(d) A taxpayer who qualifies as a “qualified taxpayer” shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the original return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account subdivision (e).

(e) If a taxpayer is eligible to qualify under more than one subdivision of this section as a “qualified taxpayer,”

1 with respect to a net operating loss in an income year, the
2 taxpayer shall designate which subdivision of this section
3 is to apply to the taxpayer.

4 (f) Notwithstanding Section 24416, the amount of the
5 loss determined under this section shall be the only net
6 operating loss allowed to be carried over from that
7 income year and the designation under subdivision (d)
8 shall be included in the election under Section 24416.1.

9 SEC. 17. It is the intent of the Legislature that the
10 changes to the Personal Income Tax Law and the Bank
11 and Corporation Tax Law made by this act shall be
12 deemed to be in effect as of January 1, 1997, and for those
13 purposes shall be given retroactive application.

14 SEC. 18. The Legislature finds and declares that this
15 act fulfills a statewide public purpose because it provides
16 for incentives for the economic development of
17 depressed areas of the state.

18 SEC. 19. This act provides for a tax levy within the
19 meaning of Article IV of the Constitution and shall go into
20 immediate effect.

